DEWAN'S REPLY: Mr. P. K. Joseph, in regard to the first point in your representation, *viz.*, as to law's delays, the High Court point out that strenuous steps are being taken for the speedy disposal of civil suits; and in regard to criminal cases, they say the complaint is groundless.

Your next point was about the irregularities in the case of execution of decrees and you levelled charges against the subordinates of the Judicial Department like *amins* and peons. In regard to that matter, if you had given specific, definite instances, the Government could undertake to investigate them. But now, since your allegations are only in vague general terms, it is not possible to make any investigation in the matter.

As regards the heavy work in the First Class Magistrates' Courts, certainly there is very heavy work in some of these courts, for instance in Devicolam. Last year, in Kottayam, there was a heavy file owing to the change of Magistrates. With the appointment of Munsiff-Magistrates in Changanachery and Todupuzha, the work of the First Class Magistrates there was lightened. In Trivandrum also, the work is undoubtedly heavy. The District Magistrate has suggested the appointment of a Munsiff-Magistrate at Neduvangad and that will be considered. Peermade, Trivandrum and Devicolam are probably the only three courts where the file is rather heavy. In all other places, the work has already been lightened or will shortly be lightened.

I cannot undertake to establish more District Courts.

In regard to the attestation of depositions by vakils, the High Court do not consider it necessary.

As regards your last point, we cannot have an inflexible rule, shutting out a particular set of recruits. We must have a flexible system in regard to recruitment, so that we may get the best men available. I do not think there is any other of the specific points that you raised which is susceptible of a ready reply.

38. Defects in the working of the Judicial Department.

MR. R. BHAGAVATIPERUMAL CHETTIYAR (*Member, Trading Classes, Kottar*) represented that there were several defects in the administration of civil justice and as a consequence, the people were experiencing great hardships and inconveniences. The following were some of the defects for which the member suggested remedies:—

(1) Too many cases were posted for a single day and cases which could not be taken up were adjourned. It should be ruled that only as many cases as could be finished on a single day should be posted for that day.

(2) The examination of witnesses was not conducted on the day on which they were summoned, for want of time. The depositions of such witnesses should somehow or other be taken on that day. Their attendance should also be taken before the court assembles.

(3) Decrees should be issued within 15 days after the decision of suits and a rule to that effect should be strictly enforced.

(4) The regular preparation of diaries (daily work statements) in courts should be insisted on by the presiding officers.

(5) Applications for execution of decrees, such as attachment of property and issue of warrants, should be promptly attended to and the processes should be properly served. Information regarding the passing of orders on such applications should be given to the plaintiffs the day after the presentation of applications.

(6) Claims to property attached under execution were not promptly disposed of. It should be done within a period of six months at the most.

(7) Processes were not properly served. The service of processes should be attested to by the local *Provertikar* or by other persons of status.

(8) The rule that, in preparing copies of records, 175 words should be written on a single page was not being strictly observed. The excess number of copying sheets produced by the applicants was not always returned. To

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ensure the prompt return of such sheets, it would be well if the number of copying sheets produced and the number returned were entered in the copies and the sheets returned in the presence of the head ministerial officer. There was great delay in granting copies of records. Arrangements should, therefore, be made also for the grant of copies within three days of the production of copying sheets.

(9) Documents produced as exhibits should be returned within two days from the date of application.

(10) Account books produced by merchants should be promptly examined and returned. Ordinarily, they should never be kept in courts. Only portions of those books relevant to the cases concerned should be examined. Other portions should not be looked into as they might contain information that should not be published. If, for any reason, the account books had to be retained in courts, they should be kept under the court seal which should be broken only in the presence of the owner. Pro-notes and other unregistered documents produced should be similarly kept.

(11) *Chellans* for depositing decree amounts should be given on application without delay. Information as to the exact decree amounts should also be furnished immediately on application. On deposit of the decree amounts, the parties concerned should be given notice and cheques should be granted without delay for the amounts so deposited.

(12) There was no necessity for insisting on copies of *chittas* and encumbrance certificates at the time of attachment of immoveable property. If necessary, it would be enough if they were produced at the time of auction sale.

(13) If application was made for the transfer of a case from the file of one court to that of another, the transfer should be made within two days from the date of application.

(14) Daily and monthly work statements should be inspected by the presiding officers and submitted to the superior courts where they should be subjected to scrutiny.

(15) Disposals of cases should be entered in the file book then and there.

(16) There was no definite rule regarding the filing of affidavits. The requirements should me made definite.

(17) Cases pending for more than two years should be disposed of without further delay. It should also be ruled that in future no case should pend for more than three years.

(18) In giving promotion to judicial officers, the High Court should take into consideration the quantity and quality of the work turned out by each officer. Cases would not then be allowed to pend unduly.

(19) Judgments should be pronounced within one week after the hearing was over.

(20) When judgment-debtors arrested on warrants escaped, prompt steps should be taken to prosecute them. If such escape was due to the fault of the peons, they should be severely dealt with.

(21) The rate of interest on amounts for the recovery of which suits are filed should be 12 per cent. per annum during the pendency of suits and 9 per cent. after decree. If such varying rates were fixed, undue prolongation of the period of pendency would be prevented. Delay in the execution of decrees could also be avoided thereby.

(22) Undisbursed *batta* and unexpended process fees exceeding one rupee should be returned to the parties on a specified day of the week, of which previous notice should be given. Similarly, undisputed amounts deposited in courts should be paid to the parties concerned after notice. If the parties failed to appear on the specified dates, the amounts might be forfeited to the Government.

(23) Much difficulty was being experienced by the parties in the execution of decrees. Several cases were unduly prolonged for 10 or 12 years and yet the plaintiffs did not get the money due. Moreover, they were obliged to spend money again every time they applied for the execution of decrees. It might happen

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that, before the decree was executed, the debtor became bankrupt. It was, therefore, very necessary to issue stringent orders for the prompt execution of decrees.

DEWAN : Mr. Bhagavatiperumal Chettiyar, you want to solve straight-away twenty-three matters.

The member represented that the difficulties pointed out by him were actually experienced by the people and involved a lot of expenditure.

DEWAN : If you select any three of the most important and urgent of your subjects, and write to the Chief Secretary to Government about them, I shall devote special attention and issue orders before the year closes.

The member said that he would do so.

39. Judicial Administration.

MR. R. SANKARANARAYANA AIYAR (*Member, Municipal Council, Trivandrum*) said that the well-being and prosperity of the people depended upon the efficient administration of the Judicial Department. It was therefore highly necessary to select officers of character and capacity for the department. The existing departmental machinery was defective, with the result that the people were gradually losing confidence in the judicial administration. The ministerial staff in the department was inefficient and corrupt owing to the lack of control exercised by the High Court over the subordinate judiciary, both civil and criminal. This laxity was bound to continue so long as the department was governed by six Judges of the High Court. No department, in his opinion, could be properly governed by a board of several officers working in conjunction even in regard to the details of the department. It would be better if one of the six judges be appointed in turn as a Departmental Judge and all the subordinate courts, both civil and criminal, be placed under his control. Barring questions of general policy affecting the department as a whole, the details regarding the working of the department should be entrusted to that one officer. He should be directed to make frequent inspections of courts. The existing system of inspecting the courts once in two years during the mid-summer vacation was of little value.

All Magistrates' Courts should be placed directly under the control of the High Court, the Magistrates being appointed by the High Court in the same way as Munsiffs.

The appointment of officers on a communal basis had not a little to do with the deterioration of the department. But it was happy to find that a change in the outlook had taken place as would be evidenced from the pronouncement in the Legislative Council on this subject.

The hardships caused to the litigant public on account of delay in the disposal of suits were many. Justice delayed was justice denied. The various technicalities involved in the provisions of law and the slow and crawling way in which cases were disposed of rendered it impossible for the people to get justice from courts. Ordinarily, the duration of a suit till the execution of the decree was about 10 years. As a result of several representations suggesting remedies for the delay, the Government had resolved to appoint a Law's Delays Committee ; but the proposal was dropped because the Legislative Council did not vote funds for the committee. But from the speeches delivered by the members of the Council, it was clear that their objection was to a *costly* committee and it was not their idea that nothing should be done to remove law's delays. Everybody agreed that something should be done to eradicate delays. It was not his view either that a *costly* committee should be appointed ; but it was absolutely necessary that persons with experience should put their heads together and devise methods for solving this difficult problem. The matter should, therefore, be reconsidered and a committee immediately constituted. It was also his desire that the High Court be directed to see that no court kept appeals of more than two years' duration on its file.

Another source of hardship was the delay in the execution of decrees. To obtain a decree was much easier than to reap its fruits. Ordinarily, it took ten years

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